

**TENNESSEE DEPARTMENT OF REVENUE
REVENUE RULING #94-10**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

Application of Tennessee sales and use tax to certain medical equipment used in treating heart patients.

SCOPE

Revenue rulings are statements regarding the substantive application of law and statements of procedure that affect the rights and duties of taxpayers and other members of the public. Revenue rulings are advisory in nature and are not binding on the Department.

FACTS

The taxpayer has described certain medical devices sold to private hospitals as follows:

[BRAND] Catheter - This is a coronary balloon dilation catheter used for angioplasty dilation of the arteries. It is inserted in the artery, through the leg artery and dilated to open a blockage. The device is then disposed of.

[BRAND] Guiding Catheters - Same application as the [BRAND] Catheter.

Permanent Lead Introducer - This is a device that is used to guide a lead for a permanent heart pacemaker to the location that the doctor desires. The lead is then left and the introducer is removed and disposed of.

[MODEL] Heartwire - This is a temporary lead used with a temporary pacemaker to test the patient who is a potential pacemaker patient, or one who will undergo heart surgery. It

can be used for a few hours to several weeks, but would normally be of short term duration.

[INHIBITOR] and accessories - This is a device (very similar to a heart pacemaker) that is used to block the pain signal to the brain. This is used in patients with chronic pain and is implanted permanently in the body. A lead and an extension (antenna) are also used with this product. These are usually implanted in the spinal column.

[BRAND] Aortic Punch - This device is used to implant a replacement heart valve in the heart as well as arterial bypass grafts to repair damaged arteries.

QUESTION

Are coronary balloon dilation catheters, permanent lead introducers used in angioplasty dilation of the arteries; the [MODEL] Heartwire used with a temporary pacemaker; the [BRAND] Aortic Punch; or the [INHIBITOR] used to block the pain signal to the brain exempt from sales taxes pursuant to specific exemptions for medical equipment in the sales tax law?

RULING

- (1) Catheters used in angioplasty dilation of arteries; instruments used to introduce leads for a permanent heart pacemaker; and the aortic punch are surgical tools which are not subject to any sales or use tax exemption for medical devices.
- (2) The [INHIBITOR] and accessories implanted to block pain is not exempt from sales or use taxes as a prosthetic device since it does not perform a function of the body.
- (3) The [MODEL] Heartwire implanted as an electrical lead for a temporary pacemaker is exempt from sales tax as a prosthetic device.

ANALYSIS

T.C.A. Section 67-6-314 provides a list of specific medical equipment that is exempt from the Tennessee sales and use tax. Paragraph (5) of this statute, in pertinent part, provides an exemption for "prosthetics". This exemption was intended to exempt a "prosthesis" which is a device used to replace a missing body part or to augment a body function. Cardiac pacemakers and hydrocephalus valve systems have been held by the Tennessee Courts to be exempt under this provision. *Cordis Corp. V. Taylor*, 762 S.W.2d 138 (Tenn. 1988). However, there exists no specific exemption for surgical tools or appliances used to perform surgery or invasive medical procedures.

Applying the exemption statute and the *Cordis* case leads to the conclusion that even temporary pacemakers would qualify for exemption. Likewise, the [MODEL] Heartwire implanted as an electrical lead for a temporary pacemaker is essential to the functioning of the temporary pacemaker, and would qualify for exemption as a part of this "prosthetic" device.

The other medical items which are the subject of this ruling do not augment or replace a body part or a body function. Guiding catheters and catheters used for balloon dilation of arteries, are essentially medical tools. These tools do not remain in the body, but are used to facilitate angioplasty to open a blocked blood vessel. The [BRAND] Aortic Punch is a surgical tool which is used to create a clean, circular opening in the coronary artery to facilitate bypass graft procedures.

The [INHIBITOR] and accessories are implanted in the patient. This device is not intended to augment a body function, but to deliver an electrical shock or charge to the spinal cord to block or relieve pain as needed. Its purpose is to control pain which would otherwise naturally occur in the patient. It functions as a drug or medicine would to relieve pain. Therefore it does not qualify as a "prosthetic" device. Transcutaneous electric nerve stimulators (TENS) units which perform a similar function, but are not implanted, have previously been considered to be taxable devices by the Department.

Charles T. Moore, General Counsel

APPROVED: Joe Huddleston, Commissioner of Revenue

DATE: 5-19-94